

LEGAL REPRESENTATIVES OF DECEASED CLERKS IN PHILADELPHIA.

[To accompany Bill H. R. No. 233.]

MARCH 2, 1860.

Mr. HUTCHINS, from the Committee on Claims, made the following

REPORT.

The Committee on Claims, to whom was referred the memorial of the legal representatives of five deceased clerks of the Philadelphia custom-house, asking for arrears of compensation due them, have had the same under consideration, and beg leave to report :

That this claim was submitted to the thirty-fifth Congress at its first session, and then reported on favorably, from the Committee on Claims, by Mr. Maynard. Your committee concurring fully in said report, adopt it as their own, as follows :

IN THE HOUSE OF REPRESENTATIVES, June 7, 1860.

Mr. MAYNARD, from the Committee on Claims, submitted the following report :

The Committee on Claims, to whom was referred the memorial of the legal representatives of five deceased clerks of the Philadelphia custom-house, asking "for arrears of compensation due them," have had the same under consideration, and beg leave to report :

The act of 7th May, 1822, requires that the accounts of emoluments (of custom-house officers) should be stated at the treasury, like other public accounts, and the *surplus* remaining *after paying all the clerk hire*, and other expenses incident to the office, paid into the treasury instead of being (as formerly) credited to the accounts of the customs. The salaries of the clerks in the Philadelphia custom-house were fixed at a rate varying from five to eight hundred dollars, with the understanding that they should receive out of any surplus emoluments at the close of each year a fair remuneration for their services. Under a misapprehension of the act of 7th May, 1822, the deputy collector paid into the treasury the whole of the surplus emoluments, without deducting therefrom the several sums to be paid to the clerks of the office according to previous understanding.

Circumstances, which are well established by the papers in the case, delayed redress in the premises until 1846, when Calvin Blythe, then collector of said port, being fully satisfied of the justice of the claim of the clerks, decided to correct the error as far as he could, and paid over to eight of the clerks, who still continued in the office, the sum of \$38,847 50, and to the naval officers' clerks \$2,211 40, and charged the amount in his "account current of expenses incident to the collection of the revenue." At that time the five clerks whose claims are under consideration were dead, and consequently did not receive their compensation. The action on the part of the new collector was ratified by Secretary Walker. Circumstances again prevented the settlement of the claims now presented until 1854, when they were laid before the Secretary of the Treasury. The Assistant Secretary of the Treasury referred them to the Commissioner of Customs, but no official action was had thereon.

The following official letter shows the valid character of the claims :

TREASURY DEPARTMENT,
Comptroller's Office, March 7, 1846.

SIR : I have duly considered the enclosed abstract of payments made by Calvin Blythe, collector of the customs at Philadelphia, to clerks in the custom-house of that port, amounting to the aggregate sum of \$41,058 90, for services rendered by them from 1822 to the year 1832, at *maximum rates, stipulated to be paid when the emolument accounts of said collector showed a surplus wherewith to pay the same, and so actually allowed and paid in years prior to 1822*, and which *maximum rates* do not appear to have been modified by the act of Congress approved May 7, 1822, nor by any decision of the Secretary of the Treasury, who alone could subsequently have increased or reduced them ; but, on the contrary, seem to have been afterwards recognized and sanctioned by that officer, when, in the year 1839, the sum of \$15,000, under the act approved March 3, 1839, and in the year 1841, the sum of \$10,110, under the act approved March 3, 1841, were distributed amongst and paid to clerks in said custom-house to complete said *maximum rates* of compensation for services performed from the year 1832 to the year 1837 ; and which rates have since been continuously and are now allowed in conformity with law, and notwithstanding I think said collector should not have assumed to pay compensation earned so long before the beginning of his term of office, and when the propriety of paying it was under the consideration of this department. Still, as I believe, said compensation was earned under and claimed in conformity with a well known and valid agreement ; and that if said payment shall not be credited in the adjustment about to be made here of said collector's final account, in which he is charged this sum, and suit shall be brought against him and his sureties to recover the same, that agreement would be proved to the satisfaction of the court and jury, and the sum paid thereunder be consequently allowed by the verdict ; therefore I do hereby respectfully submit and

advise that it is expedient to allow and credit said collector in the said adjustment with the sum of said payments.

With great respect, your obedient servant,

JAS. W. McCULLOH.

Hon. ROBERT J. WALKER,
Secretary of the Treasury.

[Endorsement.]

The within report approved.

R. J. WALKER,
Secretary of the Treasury.

MARCH 7, 1846.

The following official statement from the deputy collector of customs at Philadelphia establishes the amount of the claims, and that eight of the clerks employed at the same time with the present claimants had been paid off:

No. 1.

Statement of arrears of compensation due to the following clerks who were in the custom-house at the district and port of Philadelphia in the year 1822, and between that and the year 1832. The said compensation having been due and payable them out of the surplus emoluments of the collector, but withheld by the then deputy collector under his misapprehension of the act of May 7, 1822, and erroneously paid into the treasury.

	From—	To—	Rate paid.	Rate claimed.	Difference.	Amount due.
Estate of G. C. Trechel..	Jan. 1, 1822	Feb. 28, 1826	\$1,200	\$1,500	\$300	} \$1,850 00
	Mar. 1, 1826	Oct. 31, 1826	600	-----	900	
Estate of Eli Valette....	Jan. 1, 1822	Feb. 1, 1824	1,200	1,500	300	623 90
Estate of J. B. Shull.....	-----	Dec. 11, 1824	660	1,200	540	1,591 27
Estate of David Gibson...	-----	Jan. 31, 1825	660	1,200	540	} 4,985 00
	Feb. 1, 1825	Dec. 31, 1831	720	-----	480	
Estate of Wm. Bryant...	Jan. 1, 1822	Mar. 31, 1825	540	800	260	845 00
						9,895 17

CUSTOM-HOUSE, PHILADELPHIA,
Collector's Office, April 6, 1853.

I do hereby certify that, on examination of the records of this office, it appears that the following named clerks in the collector's office received the arrears of compensation due them on report of the First Comptroller, March 7, 1846, and approved by the Secretary of the

treasury, to wit: Thomas F. Valette, Richard L. Howell, John C. Pechin, Robert Steele, Abraham Martin, Charles Treichel, Thomas Latimer, and Thomas Ashmead; and that the five clerks named in the foregoing list, now deceased, have not as yet received the arrears of compensation therein stated, and now claimed by their legal representatives, out of the surplus fees of the collector, erroneously paid into the treasury.

CHARLES TREICHEL,
Deputy Collector.

Your committee can perceive no good reason for withholding longer the pay due these clerks, since the payment to eight of the number has been made and officially recognized as strictly in compliance with law and established usage. They therefore report the accompanying bill, and recommend its passage.